THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36 of 1999

Dated: 30.06.2006

Between
Mandala Appala Naidu

…..Petitioner

and

1.The Chairman, AP Co-operative Tribunal,
Vijayawada, Krishna Dist and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36 of 1999

ORDER:

This writ petition is filed for issuance of Certiorari to call for the records in O.A.No.161 of 1998 on the file of the 1st respondent and to quash the same by setting aside the order dated 28.9.1998 as arbitrary and illegal.

There is no necessity to go into all the details. It seems that the petitioner has availed a loan of Rs.4,000/- from the 3rd respondent Bank and he repaid the same with interest on 16.9.1975. Thereafter, the 3rd respondent sought for recovery of the amounts. Hence, a dispute was raised and the matter was referred to the Arbitrator. The Arbitrator seems to have passed an award, but the petitioner was not served with the copy of the same. Aggrieved by the same, the petitioner filed CMA No.1 of 1975 on the file of the District Munsif, Bobbili and the same was allowed on 17.1.1978 and the matter was remanded to the Arbitrator i.e., Deputy Registrar, Parvathipuram for fresh adjudication. However, subsequent to the remand, the petitioner has received notice on 10.10.1984 issued by the 2nd respondent, asking him to be present in the enquiry being conducted. The enquiry was concluded on 23.5.1985. Therefore, there was no communication of any award passed by the 2nd respondent. However, the 2nd respondent passed an award in ARC.No.12431/83-84 dated 9.3.1996 intimating the petitioner that an award for recovery of Rs.4670.65ps with interest @ 18.75%

from 23.09.1975 till realization, has to be paid. Questioning the said order of the 2nd respondent, he filed O.A.No.161 of 1998 before the 1st respondent. The 1st respondent authority has dismissed the said O.A. Challenging the same, the present writ petition has been filed.

Heard the learned counsel on either side.

According to the petitioner, there was no material before the Tribunal. It is observed by the Tribunal that the records have not been produced in spite of several reminders. It is further observed that the appellant-petitioner is directed to approach the Deputy Registrar concerned to represent his case, if he is aggrieved by the order, as it is not possible to interfere with the order passed by the District Munsif's Court even though the order is in appellant's favour.

It is unfortunate that such an order was passed by the Tribunal without calling for records and without going through the records. In view of the above, the impugned order is liable to be set aside and accordingly set aside.

In the result, the writ petition is allowed and the matter is remanded to the 1st respondent for fresh consideration after giving opportunity to all the parties concerned. No costs.

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30.06.2006

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